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TOWN OF ACTON
Municipal Properties Department
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9629
Fax (978) 264-9630

LEGAL NOTICE - Public Shade Tree Removal

In accordance with MGL Chapter 87, Section 3, The Board of Selectmen will hold a Tree Removal hearing at 7:45 PM on Monday, November 14, 2005, in Room 204, Acton Town Hall, relative to the removal of the following Public Shade Trees:

36" DBH Oak, located on Pope Road near Brabrook Road

30" DBH Oak, located on Pope Road near Brabrook Road

These trees are recommended to be removed by the Acton Planning Board to improve the site distance from Brabrook Road, as part of the Ellsworth Village development. The purpose of this hearing is to appeal the Tree Warden's decision, which denied permission to remove these trees. All trees proposed for removal have been marked in the field.

Objection to the proposed removal may be made in writing to the Board of Selectmen prior to, or verbally at the hearing.

Dean A. Charter
Tree Warden



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9629
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Municipal Properties Department

August 23, 2005
Rev. September 6, 2005

Mr. George Dimakarakos, P.E.
Stamski And McNary, Inc.
80 Harris Street
Acton, MA 01720

Dear Mr. Dimakarakos,

I am in receipt of your request to remove three Oak trees located on Pope Road near the intersection of Brabrook Road, dated June 21, 2005. This request was made under both MGL Chapter 87, which governs the actions of the Tree Warden, and also under MGL Chapter 40, Section 15C, and the Scenic Roads Act, which is administered by the Planning Board. I am also in receipt of your letter dated August 23, 2005, which includes a portion of a report from your traffic engineer, which bolsters your argument for the removal of the trees. As you recall, we met at the site in June, and since that time I have made several return visits to post and examine the trees.

I will admit that a first blush your argument for the removal of the trees seems like a reasonable one, especially in light of the traffic safety argument. However, your very persuasive arguments need to be balanced with other factors:

1. These trees, ranging in diameter from 20 inch DBH to 36 inch DBH, are very significant, and add to the visual beauty of Pope Road.
2. At least as can be determined from a ground level inspection, these trees appear free from recognized hazards, and are healthy.
3. The Town of Acton took the action many years ago to declare Pope Road, among others, as Scenic Roads, thus giving the trees and stone walls an added degree of protection; this action, undertaken by Town Meeting, should not be overlooked.
4. It has become generally accepted by many Town Planners and Arborists that large street trees, and other street "furniture" in close proximity to the roadway, actually act as traffic calming features, and slow traffic. Removal of the trees and other obstructions along the edge of the roadway may actually cause traffic speeds to increase.
5. It appears that there have been no traffic accidents at this intersection attributable to poor sight distance.
6. There are a number of possible actions that could be taken to eliminate this perceived sight distance traffic hazard while still retaining the trees. Such actions could include enhanced traffic speed enforcement, speed bumps, advisory signage, or a stop sign on Pope Road, which might also help in slowing down traffic before it reached the more densely populated section of Pope Road and Great Road.

I will note at this point that you have asked permission to remove three Oak trees, and while we were on site I noted a fourth Oak, at the North end of the site under discussion. This tree has been hit repeatedly by vehicles and has basal rot as a result of these strikes, which should be removed under any situation. We also noted a small Hickory that was very close to the electric wires, which might be of concern to NSTAR. Action on the removal of these trees is a separate matter from your request.

MGL Chapter 87, section 4 requires that if objections are made to the removal of Public Shade Trees, the matter must be decided by the Board of Selectmen. At this point, two written objections have been submitted, one with multiple signatures. As Tree Warden, my first obligation is the protection of Public Shade Trees, unless there is overwhelming evidence that the trees, in and of themselves, present an immediate hazard to life and property. The Board of Selectmen, must, in their wisdom, strike the balance between the value of the trees in question and the perceived traffic safety improvements.

During the combined Tree Removal and Scenic Roads hearing on August 23 a number of ideas were surfaced regarding the desire to retain some or all of the trees that had been posted for removal. The compromise position, agreed to by the Planning Board, the neighbors present at the hearing, the Tree Warden, and the developer, was that the 36" Oak and the 30" Oak at the south end of the site would be saved for the time being, and that the 12" Hickory and two 20" Oaks at the north end of the site would be removed, and the road shoulder graded to provide ease of mowing in the future. After the trees were removed, the intersection would be re-evaluated for visibility problems. This work was done on Monday, August 29, and I have asked the Engineering Department to take a look to see if more work would be warranted at this point.

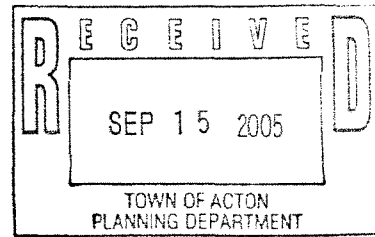
Sincerely,

Dean A. Charter, MCA
Tree Warden

cc.:

Planning
Engineering

TOWN OF ACTON
472 Main Street
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Engineering Department

INTERDEPARTMENTAL COMMUNICATION

To: Planning Department

Date: September 9, 2005

From: Engineering Department

Subject: Senior Residence Special Permit entitled "Ellsworth Village"
Sight Distance – Intersection of Brabrook Road & Pope Road

We have been asked to recheck the sight distance for the intersection of Brabrook Road and Pope Road now that the changes to the road shoulder in front of 42 Pope Road have been completed in accordance with Planning Board Decision #05-05 (Scenic Road Hearing – Tree Removal on Pope Road). The change to the road shoulder of Pope Road excludes the removal of the 36" and 30" DBH Oak trees.

1. We have concluded that the sight distance has not changed as a result of the recent road shoulder work completed by the developer. We have found that the large oak tree and the surrounding slope obstruct the driver's sight distance as it existed prior to the work.
2. We determined that a vehicle on Pope Road traveling southbound can see a 2-foot high object on the sideline of Pope Road at Brabrook Road at a maximum distance of about 260 feet.
3. We also determined that the maximum distance for the drivers exiting Brabrook Road and traveling southbound on Pope Road to make eye contact is between 210 feet and 230 feet.
4. We suggest that the applicant's engineer reevaluate the sight distance at the intersection of Brabrook Road and Pope Road and submit their findings and recommendations.

Carol Holley
39 Pope Rd
Acton, MA 01720

Dean Charter, Tree Warden
Town Hall
Acton, MA 01720

July 26, 2005

Re: Removal of Street Trees, Pope Road

Dear Mr. Charter,

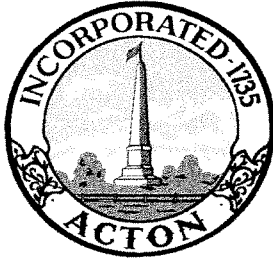
I strenuously object to the removal of street trees on Pope Road to allegedly improve sight line distance. Here are a few reasons for my objection:

1. I am a 31-year resident at 39 Pope Road. Over these years, both traffic speed (not counting the drag races that used to occur on weekend evenings in the 70's) and volume have increased noticeably.
2. Mr. Jim Kerkam, of 272 Pope Road in July of 2000 noted the increase of traffic at a meeting some Pope Road residents held with Police Chief Frank Widmayer. Note that this meeting took place even before the construction of the Brookside Shops strip mall on Route 2A.
3. At this meeting a little over five years ago, nine Pope Road area residents met with Chief Widmayer to discuss safety along Pope Road. Complaints were primarily about traffic speed and volume, lack of crosswalks, and inconsistent speed limit signage along the length of Pope Road. Sight line distance was never mentioned, even though one attendee was a Flagg Road resident and turns onto Pope Road from Brabrook Road.
4. If one is to cross Pope Road after dark (I have done so on several occasions), one sees headlights coming from a pretty far distance – and then they disappear. They reappear just before the trees slated for removal. Therefore, one could conclude that the sight line issue is not one of trees but of elevation – there is a marked dip in the road between Stoneymeade and Wingate. Removal of trees will not mitigate the change in elevation.
5. The East Acton Village Plan emphasizes pedestrian friendliness in along Pope Road. Removal of these trees will do nothing to enhance ease of pedestrian use; however, installation of stop signs, lowering of speed limits, and painting of crosswalks will.
6. Pope Road enjoys scenic road designation. The trees slated for removal are mature shade trees that, to the best of my knowledge, are healthy.

In summary, the removal of the street trees in question is counter to the scenic designation of Pope Road and will do nothing to mitigate the traffic issues encountered by area residents, present or future. Reduction of and more consistent speed limits and installation of stop signs at the Pope/Brabrook intersection are required to ensure public safety along Pope Road.

Sincerely,

Cc: Board of Selectmen, Planning Board



Planning Department

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INTERDEPARTMENTAL COMMUNICATION

To: Don P. Johnson, Town Manager **Date:** November 10, 2005
From: Roland Bartl, AICP, Town Planner *R. B.*
Subject: Public Shade Tree Removal Hearing – Pope Road

In preparation of the shade tree removal hearing before the Board of Selectmen on November 14 the Planning Board Chairman asked me to provide you with this timeline of events and the attached information. Mr. Niemyski will attend the hearing.

Timeline:

1. April 26, 2005 – The Planning Board issued a Special Permit for Ellsworth Village, a 33-unit project with 3 affordable units, for seniors 55 and older. The decision was reached following a series of four public hearings, during which, among other things, the merits of access to the project was debated – from Great Road or from Pope Road via Brabrook Road.

During the hearing residents brought to the Planning Board's attention their concerns about the safety of the Brabrook Road/Pope Road intersection citing vehicle speed on Pope Road and limited sight distances at the intersection. The project application contained a traffic consultant report, which also suggested sight distance problems at the intersection. Accordingly, the proposed plan in the application showed the removal of the subject trees and the lowering of the road shoulder on which the trees stand.

The Planning Board, in its decision opted for project access via Brabrook Road. Having heard and found evidence of sight distance problems at the intersection, the Board opted to accept the proposed improvements at Pope/Brabrook to remedy the safety concerns at the intersection. Thus the removal of the trees that are the subject of the upcoming hearing, and the lowering of the shoulder grade on Pope Road became a requirement of the special permit, subject only to a scenic hearing. With regards to the tree removal the Board found in its decision:

2.12 *The Plan shows the removal of several trees and an embankment in the shoulder of Pope Road for sight distance improvements at the Pope Road / Brabrook Road intersection. Pope Road is a designated scenic road under Chapter J of the Town Bylaws which regulates the removal of street trees in scenic roads.*

And stated under conditions:

3.2.6 Before removal of any public shade trees within Pope Road for purposes of improving sight distance, follow the procedures for posting, notification, and hearing as specified in Chapter J (Scenic Road Bylaw) of the Town of Acton Bylaws.

2. August 23, 2005 – The Planning Board and the Tree Warden held a joint hearing under the Acton Scenic Road Bylaw regarding the removal of the trees on August 23. In their respective decisions the Planning Board and Tree Warden agreed on the removal of two minor or diseased trees, but disagreed on the disposition of the two trees that are now remaining. The Tree Warden denied the request for their removal. The Planning Board decided to re-evaluate the sight distance after the removal of the first two trees and re-grading of the road shoulder to the extent possible so as not to damaging the two remaining trees.

3. October 11, 2005 – After the work had been done, the Planning Board revisited the matter. The Acton Engineering Department advised the Board that the work so far had not changed the sight distance from the prior conditions. The traffic consultant and engineer for the Ellsworth Village developer also provided their evaluations. They also agreed, with slight nuances in their observations, that a sight distance problem remains.

4. Consequently, the Planning Board found that the original conditions that lead it to requiring the tree removal and road shoulder adjustment have not changed, and that therefore the requirement still stands. As the Planning Board and the Tree Warden are not in agreement on the matter, this issue is now before the Board of Selectmen for a final decision at the upcoming hearing on November 14, 2005.

cc: Tree Warden
Town Engineer
Planning Board

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